

South Dakota Public Utilities Commission Meeting
Tuesday, February 13, 2007, at 1:30 P.M.
State Capitol Building, Room 468
Pierre, South Dakota

NOTE: *If you wish to join this meeting by conference call, please contact the Commission at 605-773-3201 by 12:00 p.m. on February 13, 2007. Lines are limited and are given out on first come/first serve basis, subject to possible reassignment to accommodate persons who must appear in a proceeding. Ultimately, if you wish to participate in the Commission Meeting and a line is not available you may have to appear in person.*

NOTE: *To listen to the Commission Meeting live please go to the PUC's website www.puc.sd.gov and click on the LIVE button on the home page. The Commission requests that persons who will only be listening to proceedings and not actively appearing in a case listen via the webcast to free phone lines for those who have to appear. The Commission meetings are archived on the PUC's website under the Commission Actions tab and then click on the LISTEN button on the page.*

NOTE: *Notice is further given to persons with disabilities that this Commission meeting is being held in a physically accessible place. If you have special needs, please notify the Commission and we will make all necessary arrangements.*

AGENDA OF COMMISSION MEETING

Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission.
(Consumer Affairs: Deb Gregg)

Electric

1. EL07-001 In the Matter of the filing by Xcel Energy for Approval of its Revised Rate Sheets for its Occasional Delivery Energy Service and Time of Delivery Energy Service.
(Staff Analyst: Dave Jacobson, Staff Attorney: Kara Van Bockern)

Application by Northern States Power for approval of revised rate sheets for Occasional Delivery Energy Service and Time of Delivery Energy Service Pursuant to Docket No. F-3365. The proposed changes include an increase in metering charges and an increase in energy payments based on the Company's 2007 avoided cost projection.

TODAY, shall the Commission Approve the Revised Rate Sheets?

2. EL07-003 In the Matter of the Filing by MidAmerican Energy Company for Approval of Tariff Revisions. (Staff Analyst: Keith Senger, Staff Attorney: Karen Cremer)

On January 5, 2007, MidAmerican Energy Company filed to revise its customer bill format by rewording the late payment charge message on the bill.

TODAY, shall the Commission Approve the Tariff Revisions?

3. **EL07-004** **In the Matter of the Filing by Otter Tail Power Company for Approval of an Electric Service Agreement for the Supply of Bulk Interruptible Power between Otter Tail Power Company and Valley Queen Cheese Factory, Inc. (Staff Analysts: Dave Jacobson/Nathan Solem, Staff Attorney: Karen Cremer)**

On January 22, 2007, Otter Tail Power Company filed for approval of a tariff revision. The Bulk Interruptible Rate agreement with Valley Queen Cheese has been removed from the Summary of Contracts with Deviations Sheet as Valley Queen has elected to receive power under Otter Tail's Large General Service Tariff.

TODAY, shall the Commission Approve the Tariff Revision?

Natural Gas

1. **NG07-001** **In the Matter of the Filing by MidAmerican Energy Company for Approval of Tariff Revisions. (Staff Analyst: Keith Senger, Staff Attorney: Karen Cremer)**

On January 5, 2007, MidAmerican Energy Company filed to revise its customer bill format by rewording the late payment charge message on the bill.

TODAY, shall the Commission Approve the Tariff Revisions?

Telecommunications

1. **TC04-126** **In the Matter of the Filing by Midstate Telecom, Inc. for Approval of Revisions to its Intrastate Switched Access Tariff. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)**

On July 2, 2004, Midstate Telecom, Inc. (MTI) submitted, for approval, revised pages to MTI's Switched Access Tariff No. 1. MTI's revised tariff rates are based on a statewide average in accordance with ARSD 20:10:27:12. MTI was granted exemption from developing intrastate switched access rates based on company specific costs in Docket TC02-032. The Commission approved the tariff revisions subject to refund at its August 17, 2004, meeting.

TODAY, shall the Commission Not Require a Refund with Interest? AND, shall the Commission Close the Docket?

2. **TC04-127** **In the Matter of the Filing by Northern Valley Communications, LLC for Approval of Revisions to its Intrastate Switched Access Tariff. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)**

On July 2, 2004, Northern Valley Communications (NVC) submitted, for approval, revised pages to NVC's Intrastate Switched Access Tariff No. 1. NVC's revised tariff rates are based on a statewide average in accordance with ARSD 20:10:27:12. NVC was granted exemption from developing intrastate switched access rates based on company specific costs in Docket TC02-170. The Commission approved the tariff revisions subject to refund at its August 17, 2004, meeting.

TODAY, shall the Commission Not Require a Refund with Interest? AND, shall the Commission Close the Docket?

3. TC06-066 In the Matter of the Section 272 Biennial Report for Qwest Communications International, Inc. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

On June 9, 2006, the Commission received from Ernst & Young a Report of Independent Accountants on Applying Agreed-Upon Procedures regarding the section 272 biennial report for Qwest Communications International, Inc. Pursuant to section 272(d) of the Communications Act of 1934, as amended, the Commission is accepting comments on this report. Any person may submit comments and the comments should include any proposal for how the Commission should proceed with this docket. No comments have been received.

TODAY, how shall the Commission Proceed?

4. TC06-175 In the Matter of the Petition of Sprint Communications Company L.P. for Arbitration pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to an Interconnection Agreement with Interstate Telecommunications Cooperative, Inc. (Staff Analyst: Harlan Best, Staff Attorney: Kara Van Bockern)

On October 16, 2006, Sprint Communications Company L.P. (Sprint) filed a petition to arbitrate, pursuant to SDCL 49-31-81 and ARSD 20:10:32:29-32, and Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), certain terms and conditions of a proposed Interconnection Agreement between Sprint and Interstate Telecommunications Cooperative, Inc. (ITC). Sprint filed a list of unresolved issues consisting of: (1) Should the definition of End User in this Agreement include end users of a service provider for which Sprint provides interconnection, telecommunications services or other telephone exchange services? (2) Should the Interconnection Agreement permit the parties to combine wireless and wireline traffic on interconnection trunks? (3) Should the Interconnection Agreement permit the parties to combine all traffic subject to reciprocal compensation charges and traffic subject to access charges onto interconnection trunks? (4) Should the Interconnection Agreement contain provisions for indirect interconnection consistent with Section 251(a) of the Act? (5) In an indirect interconnection scenario, is the ILEC responsible for any facility or transit charges related to delivering its originating traffic to Sprint outside of its exchange boundaries? (6) What direct interconnection terms should be contained in the Interconnection Agreement? (7) What are the appropriate rates for direct interconnection facilities? (8) When a two-way interconnection facility is used, should Sprint and Interstate share the cost of the interconnection facility between their networks based on their respective percentages of originated traffic? (9) What is the appropriate reciprocal compensation rate for the termination of telecommunications traffic, as defined by Sprint in the Agreement? (10) Should Sprint's proposed language regarding Local Number Portability be adopted and incorporated into the Interconnection Agreement? (11) Should the Interstate-proposed Directory Listing provisions, as modified by Sprint, be adopted and incorporated into the Interconnection Agreement? Sprint respectfully requests the Commission to arbitrate each of the remaining disputes between Sprint and Interstate, to find in Sprint's favor and to adopt Sprint's proposed contract language. On November 3, 2006, The South Dakota Telecommunications Association (SDTA) filed a Petition to Intervene. Intervention was denied to SDTA at the December 6, 2006, Commission Meeting. On January 9, 2007, ITC filed a Motion to Compel Discovery. Specific relief requested by ITC consisted of: 1) The Commission is requested to order Sprint to fully respond to Interrogatory No. 7 by identifying the agreement or agreements that exist between Sprint and MCC; 2) The Commission is requested to order Sprint to provide all agreements requested in Document Request No. 2; 3) The Commission is requested to order Sprint to provide all agreements requested in Document Request No. 3; 4) The Commission is requested to order Sprint to provide the information requested in Interrogatory No. 14; 5) The Commission is requested to order Sprint to provide the information

requested in Interrogatory No. 15; 6) The Commission is requested to order Sprint to provide the information requested in Interrogatory No. 16 or, in the alternative, find now that Sprint is not acting as a common carrier and is not entitled to interconnection to ITC for a third party's (MCC) end users customers and that MCC must seek interconnection directly with ITC; 7) The Commission is requested to order Sprint to provide the information requested in Interrogatories 17 and 18 or, in the alternative, enter an order finding that Sprint is not acting as a common carrier and is not entitled to interconnection to ITC for a third party's (MCC) end users and that MCC must seek interconnection directly with ITC for MCC's customers; 8) Sprint should be ordered to provide the diagram that ITC requested in Interrogatory 20; 9) Sprint should be ordered to provide the documents requested showing the networks requested in Document Request No. 5; 10) Sprint should be ordered to respond to Request for Admission No. 3; and 11) Sprint should be ordered to provide all of the requested documents that Sprint has in Sprint's possession. At its January 16, 2007, meeting the Commission granted a motion to compel in part. On January 26, 2007, SDTA filed a Petition for Reconsideration and Clarification.

TODAY, shall the Commission Grant the Petition for Reconsideration and Clarification?

5. TC06-176 In the Matter of the Petition of Sprint Communications Company L.P. for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to an Interconnection Agreement with Brookings Municipal Utilities d/b/a Swiftel Communications. (Staff Analyst: Harlan Best, Staff Attorney: Kara Van Bockern)

On October 16, 2006, Sprint Communications Company L.P. (Sprint) filed a petition to arbitrate, pursuant to SDCL 49-31-81 and ARSD 20:10:32:29-32, and Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), certain terms and conditions of a proposed Interconnection Agreement between Sprint and City of Brookings Utilities d/b/a Swiftel Communications (Swiftel). Sprint filed a list of unresolved issues consisting of: (1) Should the definition of End User in this Agreement include end users of a service provider for which Sprint provides interconnection, telecommunications services or other telephone exchange services? (2) Does the Telecommunications Act authorize the Commission to arbitrate terms and conditions for interconnection obtained under Section 251(a) of the Telecommunications Act? If yes, what terms and conditions should the Commission impose on the parties in this proceeding? (3) Should the Interconnection Agreement permit the parties to combine wireless and wireline traffic on interconnection trunks? (4) Should the Interconnection Agreement permit the parties to combine all traffic subject to reciprocal compensation charges and traffic subject to access charges onto the interconnection trunks? (5) What is the appropriate reciprocal compensation rate for the termination of telecommunications traffic? (6) Should Sprint's proposed language regarding Local Number Portability be adopted and incorporated into the Interconnection Agreement? (7) Should the ILEC-proposed Directory Listing provisions, as modified by Sprint, be adopted and incorporated into the Interconnection Agreement? (8) Termination: A) Should the termination provision of the Interconnection Agreement permit the existing Interconnection Agreement to remain in effect while the parties are in the process of negotiating and/or arbitrating a replacement Interconnection Agreement? B) Should the Interconnection Agreement contain provisions that allow the parties to terminate the Agreement for: 1) a material breach; 2) if either party's authority to provide service is revoked or terminated; or, 3) if either party becomes insolvent or files for bankruptcy? (9) What 911 liability terms should be included in the Interconnection Agreement? (10) What Force Majeure terms should be included in the Interconnection Agreement? Sprint respectfully requests the Commission to arbitrate each of the remaining disputes between Sprint and Swiftel, to find in Sprint's favor and to adopt Sprint's proposed contract language. On November 3, 2006, The South Dakota Telecommunications Association (SDTA) filed a Petition to Intervene. Intervention was denied to SDTA at the December 6, 2006, Commission Meeting. On January 9, 2007, Sprint filed a Motion to Compel Swiftel be compelled to provide complete and appropriate responses to Request Nos. 2, 3, 15, 19, 26, 29, and 38. On January 9, 2007, Swiftel filed a Motion to Compel Sprint to provide substantive, non-evasive responses to discovery requests

4, 5, 13, 14, 15, 18, 20, 23, 24, 25 and 26 and to produce the documents requested in Requests for Production of Documents 1, 3, 4, 5 and 6 contained in the Discovery Requests of Brookings Municipal Utilities d/b/a Swiftel Communications to Sprint dated December 8, 2006. At its January 16, 2007, meeting the Commission granted a motion to compel in part. On January 26, 2007, SDTA filed a Petition for Reconsideration and Clarification.

TODAY, shall the Commission Grant the Petition for Reconsideration and Clarification?

- 6. TC06-178 In the Matter of the Application of Sprint Communications Company L.P. for Authority to Provide Local Exchange Services in Certain Rural Areas Served by Brookings Municipal Utilities d/b/a Swiftel Communications. (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)**

On October 20, 2006, Sprint Communications L.P. filed a petition seeking authorization to provide local exchange services in the rural area served by Brookings Municipal Utilities d/b/a Swiftel Communications in the Brookings rate center. On November 7, 2006, the South Dakota Telecommunications Association (SDTA) filed a Petition for Intervention. Sprint filed Opposition to SDTA's Intervention on November 20, 2006. The Commission granted intervention to SDTA at its December 6, 2006, meeting.

TODAY, how shall the Commission Proceed?

- 7. TC06-180 In the Matter of the Application of Sprint Communications Company L.P. for Authority to Provide Local Exchange Services in Certain Rural Areas Served by Interstate Telecommunications Cooperative, Inc. (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)**

On October 24, 2006, Sprint Communications L.P. filed a petition seeking authorization to provide local exchange services in the rural areas served by the Interstate Telecommunications Cooperative, Inc. ILEC in the Castlewood, Elkton, Estelline, Hayti, Lake Norden and White rate centers. On November 7, 2006, the South Dakota Telecommunications Association (SDTA) filed a Petition for Intervention. Interstate Telecommunications Cooperative (ITC) filed a Petition for Intervention on November 8, 2006. Sprint filed Opposition to SDTA's Intervention on November 20, 2006. The Commission granted intervention to SDTA at its December 6, 2006, meeting.

TODAY, how shall the Commission Proceed?

- 8. TC06-188 In the Matter of the Application of MCC Telephony of the Midwest, Inc. d/b/a Mediacom for a Certificate of Authority to Provide Interexchange and Local Exchange Services in the Brookings Exchange (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)**

On November 6, 2006, MCC Telephony of the Midwest, Inc. d/b/a Mediacom ("MCC") filed a petition for a certificate of authority to provide facilities-based and resold basic local exchange services. Services proposed will include non-switched, switched local services and special access services in the Brookings rural exchange area. Brookings Municipal Utilities d/b/a Swiftel Telecommunications (Swiftel) filed a Petition for Intervention on November 21, 2006. The South Dakota Telecommunications Association (SDTA) filed a Petition for Intervention on November 22, 2006. The Commission granted intervention to Swiftel and SDTA at its December 6, 2006, meeting.

TODAY, how shall the Commission Proceed?

9. **TC06-189** **In the Matter of the Application of MCC Telephony of the Midwest, Inc. d/b/a Mediacom for a Certificate of Authority to Provide Interexchange and Local Exchange Services in the Castlewood, Elkton, Estelline, Hayti, Lake Norden and White Exchanges (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)**

On November 6, 2006, MCC Telephony of the Midwest, Inc. d/b/a Mediacom ("MCC") filed a petition for a certificate of authority to provide facilities-based and resold basic local exchange services. Services proposed will include non-switched, switched local services and special access services in the Castlewood, Elkton, Estelline, Hayti, Lake Norden and White rural exchange areas. On November 10, 2006, Interstate Telecommunications Cooperative, Inc. (ITC) filed a Petition for Intervention. The South Dakota Telecommunications Association (SDTA) filed a Petition for Intervention on November 22, 2006. Intervention was granted to ITC at the November 28, 2006, commission meeting. The Commission granted intervention to SDTA at its December 6, 2006, meeting.

TODAY, how shall the Commission Proceed?

10. **TC06-195** **In the Matter of the Application of ITI Inmate Telephone, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota (Staff Analyst: Nathan Solem, Staff Attorney: Karen Cremer)**

On December 4, 2006, ITI Inmate Telephone, Inc. filed an application seeking a Certificate of Authority to offer automated collect calling services to inmates of confinement facilities within the State of South Dakota.

TODAY, shall the Commission Grant a Certificate of Authority to ITI Inmate Telephone, Inc.?

11. **TC06-203** **In the Matter of the Application of New Horizons Communications Corp. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota. (Staff Analyst: Keith Senger, Staff Attorney: Kara Van Bockern)**

On December 22, 2006, New Horizons Communications Corp. filed an application seeking a Certificate of Authority to provide interexchange services throughout South Dakota. The Applicant intends to provide interexchange services, including direct and dial-around outbound dialing, toll free in bound dialing, directory assistance, data services and postpaid calling card services.

TODAY, shall the Commission Grant the Certificate of Authority to New Horizons Communications Corp.?

12. **In the Matter of the Approval of Agreements in Dockets TC07-001, TC07-002 and TC07-005**

- TC07-001** **In the Matter of the Filing for Approval of Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and Capital Telephone Company, Inc. (Staff Attorney: Kara Van Bockern)**

On January 8, 2007, the Commission received a filing for the approval of a Wireline Interconnection Amendment between Qwest Corporation and Capital Telephone Company, Inc. for the State of South Dakota.

TC07-002 In the Matter of the Filing for Approval of an Adoption Agreement between Qwest Corporation and American Fiber Network, Inc. (Staff Attorney: Kara Van Bockern)

On January 8, 2007, the Commission received a filing for the approval of a Wireline Interconnection Amendment between Qwest Corporation and American Fiber Network, Inc. for the State of South Dakota.

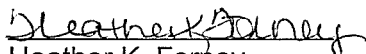
TC07-005 In the Matter of the Filing for Approval of an Interconnection Agreement between Aventure Communication Technology, L.L.C. and Jefferson Telephone Company, LLC. (Staff Attorney: Kara Van Bockern)

On January 18, 2007, the Commission received a filing for the approval of an Interconnection Agreement between Aventure Communication Technology, LLC and Jefferson Telephone Company, LLC.

TODAY, shall the Commission Approve the Agreements Listed Above?

Announcements

1. The next regularly scheduled Commission meeting will be held March 13, 2007, at 2:30 p.m. in Room 468, State Capitol Building, Pierre, SD.
2. Commission meetings are scheduled for March 27 and April 10, 2007.
3. A Show Cause Hearing in Dockets TC06-204 through TC06-214 will be held in the Cactus Conference Room in the Public Utilities Commission Office on February 13, 2007, at 10:00 a.m.
4. Commissioners and staff will be attending the National Association of Regulatory Utility Commissioners (NARUC) Winter Meetings in Washington, DC, February 18 – 21, 2007.
5. The Commission offices will be closed Monday, February 19, 2007, in observance of Presidents' Day.
6. A hearing in Dockets TC06-175 and TC06-176 will be held in the Matthews Training Center February 27 – March 2, 2007. The hearing will begin at 9:00 a.m. on Tuesday, February 27, 2007.


Heather K. Forney
Deputy Executive Director
heather.forney@state.sd.us
February 6, 2007